

**STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE ENVIRONMENTAL QUALITY BOARD**

In the Matter of the Proposed Exempt Rules of the
Minnesota Environmental Quality Board Regarding
Amendments to the Rules Governing Environmental
Review, Minnesota Rules, Chapter 4410

**ORDER ON REVIEW OF RULES
UNDER MINN. STAT. § 14.388 AND
MINN. R. 1400.2400 FOLLOWING
AGENCY RESUBMISSION**

On August 24, 2012, the Minnesota Environmental Quality Board (EQB) filed documents with the Office of Administrative Hearings seeking review and approval of the above-entitled rules under Minn. Stat. §§ 14.388 and Minn. R. 1400.2400.

On September 7, 2012, the Administrative Law Judge issued an Order on Review of Rules under Minn. Stat. § 14.388 and Minn. R. 1400.2400. In the Order, the Administrative Law Judge determined that the EQB has the authority to use the exempt rulemaking process set forth in Minn. Stat. § 14.388 and Minn. R. 1400.2400 in connection with the proposed rules and has provided adequate justification for its use of that process. The EQB rules proposed and approved as to form by the Revisor's Office on August 22, 2012, and filed with the Office of Administrative Hearings on August 24, 2012, were found to meet the requirements for exempt rulemaking under Minn. Stat. §14.388 and Minn. R. 1400.2400 and were approved as to legality. However, a modification that was subsequently proposed by the EQB to the language of Part 4410.2900 of the proposed rules was not approved on the ground that the modification had not been approved as to form by the Revisor's Office and was not properly before the Administrative Law Judge.

On September 11, 2012, the EQB submitted a revised draft of the proposed amendments which was certified by the Revisor of Statutes on September 10, 2012 (RD4111). The revised draft incorporated the earlier modification to Part 4410.2900 proposed by the EQB. The rules, as modified, were approved as to form by the Revisor of Statutes.

Based upon a review of the record in this matter,

IT IS HEREBY ORDERED THAT:

1. The modification proposed by the EQB serves to clarify the proposed rules and improves their readability.
2. The proposed rules as resubmitted on September 11, 2012, and approved as to form by the Office of the Revisor of Statutes on September 10, 2012 (RD4111), were adopted in compliance with the procedural requirements of Minnesota Statutes Chapter 14 and Minnesota Rules, Chapter 1400, and are APPROVED.

Dated: September 18, 2012

s/Barbara S. Neilson
BARBARA L. NEILSON
Administrative Law Judge